

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARL ANDREW MARSHALL,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

Case No.: 15-CV-2436-W (JLB)

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION [DOC. 23];**

**(2) DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT [DOC. 17]; AND**

**(3) GRANTING DEFENDANT'S
CROSS-MOTION FOR SUMMARY
JUDGMENT [DOC. 18]**

On October 28, 2015, Plaintiff Carl Andrew Marshall filed this action seeking judicial review of the Social Security Commissioner's final decision denying his claim for disability insurance benefits pursuant to the Social Security Act. (*See Compl.* [Doc. 1].) The matter was referred to the Honorable Jill L. Burkhardt, United States Magistrate Judge, for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1). (*Nov. 19, 2015 Order* [Doc. 5].) Thereafter, the parties filed cross-motions for summary judgment. (*Pl.'s Mot.* [Doc. 17]; *Def.'s Mot.* [Doc. 18].)

1 On January 31, 2017, Judge Burkhardt issued a Report and Recommendation
 2 (“R&R”) recommending that the Court deny Plaintiff’s motion for summary judgment
 3 and grant Defendant’s cross-motion for summary judgment. (*R&R* [Doc. 23].) Judge
 4 Burkhardt ordered that any objections be filed by February 14, 2017. (*Id.* [Doc. 23]
 5 24:27–25:2.) No objections were filed. There has been no request for additional time to
 6 object.

7 A district court’s duties concerning a magistrate judge’s report and
 8 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of the
 9 Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are
 10 filed, the district court is not required to review the magistrate judge’s report and
 11 recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)
 12 (reasoning that 28 U.S.C. § 636(b)(1)(C) “makes it clear that the district judge must
 13 review the magistrate judge’s finding and recommendations de novo *if objection is made*,
 14 but not otherwise”); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003)
 15 (concluding that where no objections were filed, the District Court had no obligation to
 16 review the magistrate judge’s report). This rule of law is well-established within both the
 17 Ninth Circuit and this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n.13 (9th Cir.
 18 2005) (“Of course, de novo review of a R & R is only required when an objection is
 19 made to the R & R[.]”) (citing Reyna-Tapia, 328 F.3d at 1121); Nelson v. Giurbino, 395
 20 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopting the R&R without review
 21 because neither party filed objections despite having the opportunity to do so); see also
 22 Nichols v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

23 Accordingly, the Court accepts Judge Burkhardt’s recommendation and **ADOPTS**
 24 the R&R [Doc. 23] in its entirety.

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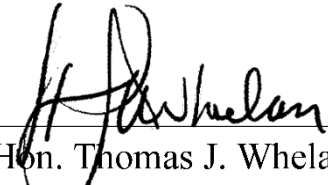
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1 For the reasons stated in the R&R, which is incorporated herein by reference, the
2 Court **DENIES** Plaintiff's motion for summary judgment [Doc. 17] and **GRANTS**
3 Defendant's cross-motion for summary judgment [Doc. 18].

4 Judgment is entered for Defendant. The clerk is directed to close the case.

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6 **IT IS SO ORDERED.**

7 Dated: February 23, 2017

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10 Hon. Thomas J. Whelan
United States District Judge